



STATE OF ALABAMA
ALABAMA PUBLIC SERVICE COMMISSION
STATE OFFICE BUILDING
P O BOX 991
MONTGOMERY ALABAMA 36102

JIM SULLIVAN, PRESIDENT
LYNN GREER, ASSOCIATE COMMISSIONER
JIM FOLSOM, JR. ASSOCIATE COMMISSIONER

WALLACE TIDMORE
SECRETARY

SOUTH CENTRAL BELL,
Petitioner

Re: Approval of revisions to
introduce customer-provided public
telephone access line service.

DOCKET 19225

Re: All telephone companies
operating in the state of Alabama for
the purpose of establishing rules,
regulations, and guidelines governing
provision of customer-owned coin
operated telephone service.

DOCKET 19278

REPORT AND ORDER

BY THE COMMISSION:

On October 1, 1984, Petitioner South Central Bell filed revisions to their general subscriber services tariff which introduces access line service for customer-provided public telephones. This revision provides that registered coin implemented telephone sets, pursuant to FCC Docket 84-270 released June 25, 1984, will be connected to the exchange network via a Standard Business Measured Rate Service access line. This tariff, filed under Docket 19225, removes the prohibition against resale of local service and provides for charges for the access of same. This tariff had a requested effective date of November 9, 1984. On October 11, 1984, it was suspended through May 8, 1985 and set for hearing by notice of November 26th.

Under Docket 19278, heard on joint record with 19225, the Commission set a proceeding for the purpose of establishing rules, regulations, and guidelines governing provision of customer-owned coin operated telephone service. Notice of this hearing was also issued on November 26, 1984.

On December 17, 1984, hearings were held under these two dockets. Parties participating in this proceeding were South Central Bell; AT&T Communications of the South Central States; MCI Telecommunications; General Telephone Company of the Southeast; The Alabama-Mississippi Independent Telephone Association; the Attorney General's Office; Pay Phones Unlimited, Inc.; The Association for Consumer-Owned Pay Phones, Alabama Pay Phones, Inc.; Toll Telephone, Inc.; National Pay Phone Corporation; The Alabama Public Service

Commission through counsel and Commission Staff. Testimony in this proceeding was presented by William B. Thomas, Director of New Program Development, MCI Telecommunications; Al Banzer, Pricing and Tariff Manager, General Telephone Company of the Southeast; Edward Northington, Association for Consumer-Owned Pay Phones and Pay Phones Unlimited, Inc.; Joe Ernest, Toll Telephones, Inc.; Brindley King, National Pay Phone; John Dorsch, Manager for Rates and Economics Administration for South Central Bell Telephone Company and Joan Marshall, Staff Manager in Public Communications Organization, AT&T Communications. These witnesses were cross-examined by the other parties at this proceeding, although the Attorney General and the Alabama-Mississippi Independent Telephone Association did not actively participate.

The jurisdiction of this Commission to regulate the resale of telephone service has been addressed by this Commission in Docket 18548 which concerned the resale of toll service. The findings under that docket are applicable here. Under Alabama Statutes, it was found that resellers in the state who lease service from South Central Bell or other certified common carriers operating in the state and resell services on those facilities are providing telephone service. Section 37-2-1 of the Statutes state that every person not engaged solely in interstate commerce or business that now or may hereafter own, operate, lease, manage, or control as common carrier or for hire any telephone line is a "transportation company", and therefore, a "utility" as stated in Section 37-1-30. Section 37-1-32 gives the Commission general supervision of all persons, firms, and corporations, operating utilities mentioned in Title 37. Any entity who buys his own coin telephone set, purchases or leases a line for that set from the operating telephone company and then resells the use of that line for local services unquestionably fall within this definition.

The Commission finds the intention of the Alabama Statutes is to regulate the activities of resellers, including resellers of local service operating within the state and that any entity which obtains telecommunications services from a common carrier and resells that service is a transportation company, and therefore, a utility under

Alabama Law. As such, these resellers are subject to the jurisdiction of this Commission. No party to this proceeding argued otherwise, nor objected to this Commission's jurisdiction.

Testimony was offered into the record concerning the benefits to the public of allowing resale of local service. It was stated that competition in this market will foster change, innovation and improvement to the state's pay phone system. A direct result of this competition will be new features available to the public and new developments which will benefit them. There may also be an increase in the number of pay phones available for the public use. Better service will be provided due to the direct financial interest of new small businesses with pay phones. Small business that previously could not afford to offer pay phones will now be able to offer this service to their customers. Private businesses which own or lease an FCC approved phone should be able to realize a greater profit from coin telephones, than when these services are provided by the local exchange company, which could indirectly benefit the using public.

General Telephone testified that this service would not be beneficial if provided under a flat rate as such a rate would not compensate the local exchange companies, but agree that under a measured service rate benefits would accrue to the public.

The Commission is of the opinion, and finds, that the use of privately-owned pay telephones could result in an economic advantage through the ownership or lease of these instruments, although no such advantage is guaranteed, as well as resulting in improved services to the general using public of such instruments. Therefore, we find that the prohibition against resale of local service should be removed from the tariffs of the local operating companies and the use of privately owned pay telephones should be allowed. We would caution, however, that without guidelines governing the provision of this service there could be a deterioration of this service to the public.

The FCC in Docket 84-270 interpreted the coin service exclusion of Part 68 of its rules to extend only to central office implemented coin service. Such service utilizes central office coin service and equipment to control coin collection and utilizes an

operator to provide the user with rates and charges. In contrast coin telephones not excluded in Part 68 of the rules are instrument implemented. All the circuitry to execute coin acceptance and other coin related functions are contained in the telephone itself. These telephones, by the FCC order, may be registered and connected to the public switched network as defined in Part 68 of the rules. In a prior FCC order the registration of coinless telephones was allowed. These telephones accept payment solely by credit card. In the tariff filed, both instrument implemented coin telephones and coinless telephones are referred to as customer-provided public telephones. These actions by the FCC have created a demand for access connections to the public switched network by owners of customer-provided public telephones. These actions also require modification of the restrictions on resale of local service. The proposed tariff filed in this proceeding accomplishes both these actions.

The tariff filed removes the restriction of resale of local service for customer-provided pay telephone service. South Central feels resale service must be appropriately structured and priced and the economic consequences must be addressed. The proposed tariff offers local exchange access lines for the interconnection of customer-provided public telephones. These access lines are offered on a measured service basis as opposed to a flat rate service in order to produce revenues that are reflective of the cost incurred to provide the service. Realizing that measured service is not available in all areas, South Central Bell has modified the tariff by amendment filed December 21, 1984 to offer a rate for service where measured service is not available. This offering is calculated on a discounted Business one-party rate plus a usage component based on an average amount of usage.

Besides the access line, the tariff offers features which enable the customer-provided public telephone access line subscriber to design a system which is responsive to the subscriber's specific needs and capabilities of his telephone instrument.

Bell has conducted an economic impact analysis comparing the revenue and cost effects of a business as usual case with the revenue and cost effects of serving anticipated demand for customer-provided public telephones under proposed measured service rates. The results of this analysis indicate that the company will experience and South Central's subscribers in Alabama will benefit from the positive net change in contribution.

General Telephone supported the tariff filed by Bell and the measured service rate stating that under the existing flat rate environment the resale of local service would not be in the public interest. The old rates produced by the telephone company are based on averages. However, resellers tend to gravitate towards the high volume areas in order to obtain more revenue. This tends to distort the average. General Telephone strongly supports usage sensitive pricing for providers of public coin telephone stations. General sees a demand for customer-owned coin instruments and as a vehicle to cope with this demand, General agrees with Bell's proposed usage sensitive rates. General also recommended switched access in lieu of any form of dedicated access to be applicable to providers of coin telephone service as switched access is based on usage which is more representative of cost. General believes that the local exchange companies have vulnerable positions (pay telephone sites) which will be lost to the resellers; many of which would be their most profitable. Therefore, measured service rates are necessary to compensate the local exchange companies for lost revenues.

A number of the parties in this proceeding expressed a preference for the access lines to be provided at a flat usage rate rather than measured service, as this would unquestionably increase the profits to be made by the owner of the instrument. However, no such parties offered evidence to show that the local operating companies would be compensated for the loss of revenues under a flat rate tariff.

We note that the revised tariffs' propose rates based upon Rate Group 13, the highest rate group used in the state, in all areas regardless of the prevailing rate group in each. It is our opinion that the applicable rate group in each area should be the one upon which

charges are based for this service as the rate groups should be applied evenly to all services in any given area.

It is the Commission's opinion that the local operating companies must be compensated for the provision of the access lines and recover revenues lost by the replacement of their own instruments which would almost certainly take place in locations of high revenue production. We find that the measured service rate, at the rate group level existing in each local exchange, and the comparable flat rate, based on the existing rate group in each local exchange, provided for nonmeasured service areas will most fairly and adequately produce these revenues, and therefore, these tariff rates, when filed, should be approved. The Commission is, however, aware of the uncertainties involved in entering into heretofore untested markets. There is no historical data by which to gauge this market, only future projections, therefore, it is our opinion that the access line charges as well as the other aspects of customer-owned telephones should be reviewed after one year's operation in order to assess the impact of the charges herein approved as well as other facets of this service.

We find the resale of local service only by customer-owned pay telephones should be permitted under these tariffs. The resale of toll service has been addressed in Docket 18548 and any entity wishing to provide the resale of toll telephone service must obtain a certificate for same under the guidelines established therein. To do otherwise would be discriminatory against toll resalers operating in the state who have undergone certification by this Commission. Additionally, to allow resale of toll service from customer-owned pay telephones would create confusion, not only to users in the state, but for the owners of the instruments themselves. Furthermore, this would result in inflated charges for this service which is not in the public interest.

We find both public and semi-public locations of customer-owned telephones should be permitted and indeed there was testimony from parties wishing to provide service from both type locations. It is our opinion that all locations should have an opportunity to participate in this market if the general public is to receive any benefits from this service.

As previously stated, the Commission feels certain guidelines must be established and adhered to in order to minimize deterioration of service to the public. Many of these guidelines were discussed in the proceeding and generally agreed upon by all parties concerned. Therefore, we find it unnecessary to discuss each of them at length herein, finding them to be in the best interest of the general public. These guidelines are as follows:

1. All customer-owned instruments must be registered under Part 68 of the FCC Regulation Program to be connected to the Exchange Network.
2. The instruments must be able to accommodate the hearing impaired and handicapped persons.
3. The instruments must be installed in compliance with the National Electrical Safety Code and must comply with existing Commission Rules and Regulations relating to service.
4. The owner of the instruments must be certified by the Public Service Commission, to be accomplished by a streamlined filing mechanism. Access to the exchange network shall be prohibited unless compliance with this guideline is achieved.
5. The charge for a local call is not to exceed the maximum amount authorized by the Commission for a telephone company coin telephone in that exchange.
6. The owners must display information on local addresses and telephone numbers where callers can get help when problems occur with pay telephone service.
7. The instruments must have any and all operating instructions posted thereon.
8. Non-chargeable Operator, 911, 800 numbers, and directory assistance, must be able to be made without a coin deposit, with no time limitation.
9. Local Telephone directories must be provided at each instrument location.
10. Coins must be returned by the instruments for any incompleting calls.
11. Timely repairs shall be performed on the instruments. The responsibility of which will be the owner of the telephone.

12. All instruments must be capable of accepting nickels, dimes, and quarters.

13. All local calls shall be prepaid.

14. The instruments must accept non-chargeable incoming calls at no charge to the receiving party.

15. If a time limitation is placed on a phone, proper notice must be posted and a tone must sound 30 seconds before disconnection. The minimum time limit shall be no less than three minutes.

16. All customer-owned telephones shall be attached to a one-party line only.

The guideline requiring certification by this Commission, as stated, should be done in a streamlined manner. It is our opinion that this certification should be accomplished by the filing of a form document to be issued by the Commission stating the identity of the owner, the number of instruments owned, the location of each instrument, their telephone numbers and affirming compliance with this order and the guidelines set out herein. We point out here that owners of these instruments will be liable for payment to the Commission annually of an inspection and supervision fee of no less than \$25 payable quarterly or on November 1 of each year as prescribed in Section 37-2-41, Code of Alabama 1975, as amended, and shall file annual reports as prescribed by this Commission. Upon certification and subsequent payment of inspection and supervision fees each year, owners of the instruments will be issued a sticker by the Commission to be affixed to each instrument.

The Commission directs that access lines to these individually-owned instruments will not be provided by the local exchange companies without proof of Commission certification. Any operator not in compliance with the provisions of this order shall be immediately disconnected.

Parties to this proceeding, AT&T and MCI, propose provision of a service that is toll in nature over their own interexchange facilities. MCI proposes to offer toll service to its customers by credit card over its own facilities with no provision of local or intraLATA service. AT&T will provide local and intraLATA service incidental to the provision of toll telephone service from its

instruments. However, they state they are only providing an instrument, and all revenues from local and intralATA calls would go to the local operating companies. Therefore, they are not engaged in the resale of local service. The Commission agrees that the service proposed by AT&T and MCI is not resale of local service, and therefore, not subject to this proceeding.

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the removal of the prohibition against resale of local service by customer-provided pay telephones is hereby approved allowing provision of this service by individually-owned pay telephones from both public and semi-public locations in Alabama.

IT IS FURTHER ORDERED BY THE COMMISSION, That nothing contained herein allows the Resale of Toll Telephone Service.

IT IS FURTHER ORDERED BY THE COMMISSION, That the rates and charges submitted by South Central Bell Telephone Company for the provision of this service filed under Docket 19225 hereby be denied.

IT IS FURTHER ORDERED BY THE COMMISSION, That Petitioner South Central Bell file within 30 days from the date hereof, tariffs which reflect the findings contained herein and with a proper effective date.

IT IS FURTHER ORDERED BY THE COMMISSION, That all telephone companies in the state file tariffs allowing Resale of Local Service by customer-provided pay telephones and providing access line charges for same in accordance with the findings herein.

IT IS FURTHER ORDERED BY THE COMMISSION, That any customer-owned public telephone wishing to operate within the state must first obtain certification from this Commission in accordance with the finding set out herein.

IT IS FURTHER ORDERED BY THE COMMISSION, That any telephone company operating within the state will not connect a customer-owned pay telephone to their system unless such instruments and its owner has been properly certified by this Commission.

IT IS FURTHER ORDERED BY THE COMMISSION, That any operator of a customer-owned pay telephone found in noncompliance of this order after sixty (60) days from the effective date hereof shall be immediately disconnected by the local operating company.

IT IS FURTHER ORDERED BY THE COMMISSION, That all local operating companies file with this Commission a list of all customer-owned instruments connected to their system 90 days prior to November 1 of each year.

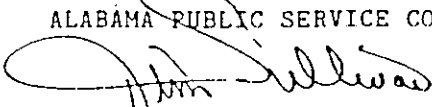
IT IS FURTHER ORDERED BY THE COMMISSION, That the guidelines, as set out hereinabove, are hereby adopted and shall govern the provision of customer-owned pay telephones in Alabama.

IT IS FURTHER ORDERED, That the matters contained herein shall be reviewed in one year from the date hereof by this Commission.

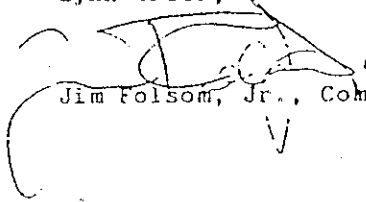
IT IS FURTHER ORDERED BY THE COMMISSION, That this order shall be effective as of the date hereof.

DAIED at Montgomery, Alabama, this 4th day of February, 1985.

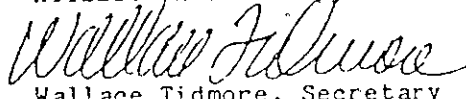
ALABAMA PUBLIC SERVICE COMMISSION


Jim Sullivan, President


Lynn Greer, Commissioner


Jim Folsom, Jr., Commissioner

ATTEST: A True Copy


Wallace Tidmore, Secretary